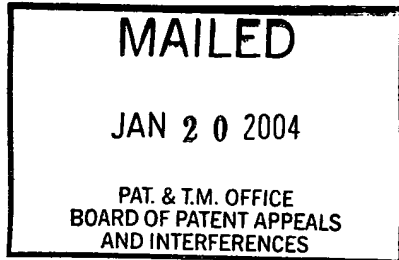


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte VERNON K. BOLAND

Application No. 09/086,627

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on December 18, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

According to page 3 of the Examiner's Answer mailed July 17, 2002 (Paper No. 23), "[t]he copy of the appealed claims contained in the Appendix to the brief is correct." However, it is noted that the language of claims 1 and 11-13 in the Appendix differs from its last amended version. Specifically, the amendment filed January 23, 2001 (Paper No. 9) has the following claim

language as element (iv) of each of the above-noted claims as follows:

(iv) redistributing computer resources on the network so that the first process is provided the minimum resource allocation should insufficient network resources be available.

However, the amendment filed July 18, 2001 (Paper No. 15) listed (iv) of claims 1 and 11-13 as follows:

(iv) redistributing computer resources on the network so that the minimum resource allocation for the first process is guaranteed should insufficient network resources be available.

It should be noted that wording "the first process is provided" is missing and has not been deleted by a formal amendment. A new version of these claims may only be entered upon submission of an amendment in proper form and on a separate paper, which must be approved by the examiner. Moreover, if the amendment is filed and entry is permitted by the examiner, a new Appendix to the Appeal Brief will need to be submitted which contains a correct copy of the claims on appeal. Currently, confusion exists as to which version of claims 1 and 11-13 is on appeal. Clarification regarding the status of these claims is required.

Accordingly, it is

ORDERED that the application is returned to the examiner for:

1. for clarification regarding the status of claims 1 and 11-13, and written notification to appellant as to which version of these claims is to be used in the Appendix to the Brief filed April 29, 2002 (Paper No. 22);

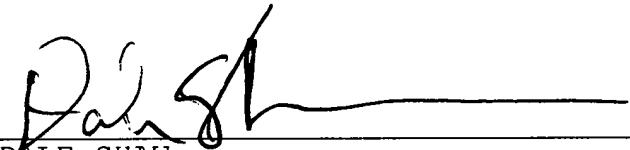
2. if appropriate, for notification to appellant to submit an amendment deleting the wording "the first process is provided" from claims 1 and 11-13;

3. if appropriate, for notification to appellant to submit a new Appendix to the Appeal Brief filed April 29, 2002 (Paper No. 22) which contains a correct copy of the claims on appeal, in particular, claims 1 and 11-13; and

4. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



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Application 09/086,627

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